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OFFICE OF PETITIONS

In re Application of :
Yuichi Murayama et al. :
Application No. 09/890,799 :
Deposited: August 3, 2001 :
Attorney Docket No. 13054.02140 :

ON PETITION

This is a decision on the petition filed August 19, 2004, under 37 CFR 1.137(a)¹, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 9, 2004 for failure to timely respond to the non-Final Office Action mailed December 8, 2003. No requests for extensions were filed. This decision precedes the mailing of a Notice of Abandonment was mailed February 5, 2004.

Petitioner argues that the Notice mailed December 8, 2003 was not received until July 27, 2004 and points out that the address used for mailing the office action was incorrect.

A review of the file reveals that the petitioner is correct and it is noted that an error on the part of the USPTO caused the office action mailed to not be received by the applicant's representative. Thus, petitioner's delay in responding to the non-Final Office Action was unavoidable under the standard set out at 37 CFR 1.137(a).

It appears that the file with the instant application has been confused with the file of another application and that the correspondence address, the name of the inventor and other identifying information for this instant file have been transposed however, the files

¹ A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

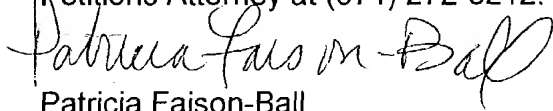
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

will be corrected and the agency apologizes for any inconvenience caused by its errors.

A message will be sent to Technology Center 1615 for both the correct file and that of the incorrect file to have the files reviewed for clarification of the record and for treatment of the amendment filed August 19, 2004 with the petition to revive. However, it should be noted that in order to correct the filing date, a petition under 37 CFR 1.53 will need to be filed with proof that all filing requirements were included with the file on August 3, 2001.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in cursive script, reading "Patricia Faison-Ball".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions